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NUMBER OF PAGES, INCLUDING COVER: 5 CHARGE NUMBER: 10807.0096.DVUS02

RE: REPLY TO RESTRICTION REQUIREMENT OF FEBRUARY 20, 2004

SN: 10/043,904  
Entitled: METHODS OF OPERATING A FOOD WASTE DISPOSER HAVING A VARIABLE SPEED MOTOR  
Inventors: William F. Strutz et al  
Examiner: John S. Goetz  
GAU: 7217

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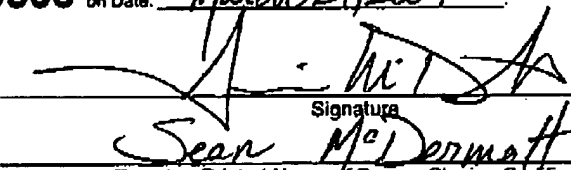
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**RECEIVED**  
**CENTRAL FAX CENTER**In re Application of:  
William F. Strutz et al.

Group Art Unit: 3725

MAR 29 2004

Serial No.: 10/043,904

Examiner: John S. Goetz

Filed: January 11, 2002

Atty. Dkt. No.: 10807.0096.DVUS02

For: METHODS OF OPERATING A FOOD  
WASTE DISPOSER HAVING A  
VARIABLE SPEED MOTOR

Confirmation No.: 7217

**OFFICIAL****REPLY TO RESTRICTION REQUIREMENT OF FEBRUARY 20, 2004**Commissioner for Patents  
Washington, D.C. 20231**I. INTRODUCTORY COMMENTS**

The following is in response to the Restriction Requirement dated Feb. 20, 2004, for which the THREE-month shortened statutory period of reply is May 20, 2004. No fees are believed due at this time. The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application. Should any fees be due for any reason, the undersigned representative authorizes the Commissioner to charge any additional fees that may be required, or credit any overpayment, to Deposit Account No. 01-02508/10807.0096.DVUS02.

REPLY TO RESTRICTION REQUIREMENT

Serial No.: 10/043,904  
Atty. Dkt. No.: 10807.0096.DVUS02**II. REMARKS IN RESPONSE TO RESTRICTION REQUIREMENT****A. General Remarks**

For the convenience of the Examiner, Applicants have reprinted the substance of the Office Action in 10-point type, bolded and italicized. Applicants' statements or arguments immediately follow each section.

**B. Provisional Election of Group I:**

1. *Restriction to one of the following inventions is required under 35 U.S.C. 121:*
  - I. *Claims 42-104 and 119-144 drawn to various methods of operating a food waste disposer based on speed adjustment.*
  - II. *Claims 105-118 drawn to various methods of operating a food waste disposer based on torque adjustment.*

Applicants provisionally elect Group I (Claims 42-104 and 119-144) and request that the Examiner conduct the examination of the above referenced application based on these claims.

**C. Traversal of Restriction Requirement Because Search and Examination of Groups I & II Would Not Create Serious Burden**

2. *Inventions of Group I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. As evidenced by claims 42 and 105, a food waste disposal may operated based on speed alone or torque alone—i.e. separately usable.*
3. *Because these inventions are distinct for the reasons given above and have acquired a separate status in the art, restriction for examination purposes as indicated is proper.*

Applicants also respectfully traverse the restriction requirement between Groups I & II. The two criteria for a proper requirement for restriction include: (A) the inventions must be independent or distinct; and (B) there must be a serious burden on the examiner. *M.P.E.P.* § 803. Even though the application includes claims to independent or distinct inventions, the Examiner must examine the entire application on its merits if the search and examination of the entire application can be made without serious burden. *Id.*

Applicants first wish to point out that Group I (Claims 42-104 and 119-144) and Group II (Claims 105-118) have not been separately classified under the USPTO's

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Classifications. Therefore, the search and examination of the Group I & II claims will not present a serious burden on the Examiner because the search and examination will not require multiple searches of different classes.

Applicants also wish to point out that the Group I & II claims both include limitations directed to methods of operating a food waste disposer. Therefore, when searching the prior art for limitations recited in the Group I claims, the Examiner will also be searching limitations of the Group II claims. In addition, when searching methods of operating a disposer based on speed adjustment (Group I), the Examiner will by necessity search and consider prior art drawn to methods of operating a disposer based on torque adjustment (Group II), because adjusting both speed and torque refer to adjusting aspects of rotation.

Consequently, the Examiner will not be subjected to a serious burden when searching and examining the Group I & II claims because Groups I & II have not been separately classified, Groups I & II are both directed to methods of operating a food waste disposer, and Groups I & II are both based on adjusting aspects of rotation. For at least these reasons, Applicants contend that restriction between Groups I & II is not warranted and respectfully request reconsideration and withdraw of the restriction between Groups I & II.

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To facilitate the resolution of any issues or questions presented by this paper, Applicants respectfully request that the Examiner directly contact the undersigned by phone to further the discussion.


REPLY TO RESTRICTION REQUIREMENT

Serial No.: 10/043,904  
Atty. Dkt. No.: 10807.0096.DVUS02

Respectfully submitted,

Date:

March 29, 2004

  
Sean P. McDermott  
Reg. No. 49,000

HOWREY SIMON ARNOLD & WHITE, LLP  
750 Bering Drive  
Houston, TX 77057  
Tel: (713) 268-1357  
Fax: (713) 787-1440